

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 975**

Introduced by Kolterman, 24; Coash, 27.

Read first time January 14, 2016

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to children and families; to adopt the Child
- 2 Welfare Services Preservation Act; and to provide severability.
- 3 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 6 of this act shall be known and may be  
2 cited as the Child Welfare Services Preservation Act.

3           Sec. 2. The Legislature finds and declares that:

4           (1) The State of Nebraska has a critical need to find and retain  
5 safe, loving, and supportive homes for children, especially because the  
6 number of children needing foster care and adoption placement outnumber  
7 the homes available for placement;

8           (2) In order to serve the best interests of the children of this  
9 state, the State of Nebraska has a longstanding public-private  
10 partnership with a diverse group of faith-based and non-faith-based  
11 organizations that work side by side to find and retain safe, loving, and  
12 supportive homes for children. Significantly, faith-based organizations  
13 have a lengthy and distinguished history of providing child welfare  
14 services which predates government involvement;

15           (3) Having as many possible qualified child-placing agencies in  
16 Nebraska is a substantial benefit to the children of Nebraska who are in  
17 need of these placement services and to all of the citizens of Nebraska  
18 because the more qualified agencies taking part in this process there  
19 are, the greater the likelihood that permanent placement can be achieved  
20 for each child; and

21           (4) In order to preserve the support that child-placing agencies  
22 offer children and families, the government should not take adverse  
23 action against child-placing agencies based on their sincerely held  
24 religious beliefs.

25           Sec. 3. For purposes of the Child Welfare Services Preservation  
26 Act:

27           (1) Adverse action includes, but is not limited to, denying a child-  
28 placing agency's application for funding, refusing to renew an agency's  
29 funding, canceling an agency's funding, declining to enter into a  
30 contract with an agency, refusing to renew a contract with an agency,  
31 canceling a contract with an agency, declining to issue a license to an

1 agency, refusing to renew an agency's license, canceling an agency's  
2 license, taking an enforcement action against an agency, treating an  
3 agency less favorably than similarly situated agencies in regard to  
4 participation in a government program, or taking any other action that  
5 materially alters the terms or conditions of an agency's funding,  
6 contract, or license;

7 (2) Child welfare service means any social service provided to or on  
8 behalf of children, including assisting abused, neglected, or troubled  
9 children, counseling children or parents, promoting foster parenting,  
10 providing foster homes or temporary group shelters for children,  
11 recruiting foster parents, placing children in foster homes, licensing  
12 foster homes, promoting adoption, recruiting adoptive parents, assisting  
13 adoptions, supporting adoptive families, assisting guardianships,  
14 assisting kinship caregivers, providing family preservation services,  
15 providing family support services, and providing time-limited family  
16 reunification services;

17 (3) Child-placing agency or agency has the same meaning as in  
18 section 71-1926; and

19 (4) State includes the state, its agencies, and its political  
20 subdivisions.

21 Sec. 4. The state shall not take an adverse action against a child-  
22 placing agency because the agency declines to provide, facilitate, or  
23 provide a direct referral for a child welfare service that conflicts with  
24 the agency's sincerely held religious beliefs.

25 Sec. 5. (1) A child-placing agency aggrieved by a violation of  
26 section 4 of this act may assert that violation as a claim or defense in  
27 any administrative or judicial proceeding and may obtain all appropriate  
28 relief, including equitable or declaratory relief and compensatory money  
29 damages, with respect to that violation. The state, governmental  
30 agencies, and political subdivisions may be sued upon claims arising  
31 under section 4 of this act. Any such suit may be brought in state or

1 federal court.

2 (2) An agency that prevails in an action described in this section  
3 by establishing a violation of section 4 of this act is entitled to  
4 recover reasonable attorney's fees and court costs.

5 Sec. 6. The Child Welfare Services Preservation Act shall be  
6 construed liberally so as to effectuate its purposes.

7 Sec. 7. If any section in this act or any part of any section is  
8 declared invalid or unconstitutional, the declaration shall not affect  
9 the validity or constitutionality of the remaining portions.